

80. (Added) The system of Claim 78 further comprising the digital engine operable to provide access to an on-line radio broadcast.

81. (Added) The system of Claim 78 wherein the cellular communication device is operable to alter playing of an accessed broadcast in response to an incoming cellular telephone call.

REMARKS

This Application has been reviewed in light of the Final Office Action mailed February 7, 2005 by the Office. At the time of this Office Action, Claims 11, 14-16, 18-21, 23, 26, 27, 29, 31, 32, and 34-39 were pending in this Application. All pending claims have been canceled without prejudice. In order to advance prosecution of this case, Claims 40-81 have been added. It is believed that the added claims do not involve any introduction of new matter, whereby entry is believed to be in order and is respectfully requested. The Applicants respectfully request reconsideration and favorable action in this case.

I. Claims 40-81 are distinguishable over the Prior Art of record

The Examiner depended primarily on Baughan (U.S. Patent # 6,510,210 B1) and Shanahan (U.S. Patent # 6,496,692 B1) in the Final Office Action. The current claim limitations presented in Claims 40-81 are not present, either alone or in combination with, Baughan, Shanahan or the prior art of record.

Specifically, Baughan is directed toward providing only non-cellular based wireless communication of audio files through the use of a Local Area Network (16) connected to a public network (17) via a home gateway 12 having a cable modem 13. Such an arrangement severely limits the mobility of a user. Baughan further states the motivation for his invention as "the market for cordless telephony devices is potentially larger than that for mobile telephones (i.e. cellular phones) and the costs of ownership and usage potentially less" (See Baughan Col 2, lines 56-59).

Shanahan, though cellular based, is primarily directed toward formatting and programming user-defined information into an electronic device (See Abstract, FIG. 8). Shanahan is silent on playing of audio files independent of telephone calls and teaches away from storage of various preformatted audio files and uses a file processor that converts data 106, 162, 172 to a single file format (See FIGs 8, 10 and 11).

Baughan and Shanahan, neither alone or in combination with the prior art of record, disclose all of the limitations of Claims 40-81. In particular Baughen, Shanahan, and the prior art of record fail to disclose the cellular communication device as recited in Claim 40. The cellular communication device of Claim 40 includes a cellular communication module operable to receive an incoming telephonic communication and a memory module operable to store plural audio formats of one or more audio files received via a cellular communication network independent of the incoming telephonic communication and a processor operable to alter a playing of at least one of the audio files in response to the incoming telephonic communication. Neither Baughen, Shanahan or the prior art of record disclose each of the elements of Claim 40. Additionally, Claims 41-55 which depend from and provide further limitations to Claim 40, are distinguishable from the prior art of record.

Baughan, Shanahan and the prior art of record also fail to disclose a cellular communication device as recited in Claim 56. In particular, Claim 56 includes a processor operable to play plural audio formats and a communication module operable to receive an

audio file selected by a user accessing an Internet website accessible external to the cellular communication device and operable to provide the user access to plural audio files via a user login page. Claim 56 further includes a limitation of a memory operable to store plural formats of audio files and a Bluetooth communication module operable to communicate an in process playing of at least one of the audio files or a telephonic communication to a wireless speaker. Neither Baughen, Shanahan or the prior art of record disclose each of the elements of Claim 56. Additionally, Claims 57-58 which depend from and provide further limitations to Claim 56, are also distinguishable from the prior art of record.

Baughen, Shanahan and the prior art of record fail to disclose a method for managing audio outputs for a cellular communication device as recited in Claim 59. The method includes playing an audio file received via a cellular communication, detecting an incoming cellular telephone call and altering playing of the audio file in response to detecting the cellular telephone call. Neither Baughen, Shanahan or the prior art of record disclose each of the elements of Claim 59. Additionally, Claims 60-67 which depend from and provide further limitations to Claim 59, are distinguishable from the prior art of record.

Finally, Baughen, Shanahan and the prior art of record fail to disclose a wireless communication system as recited in Claim 68. The system includes an Internet website provided in association with a cellular communication device operable to receive and play an audio file selected by a user accessing the Internet website external to the cellular communication device. The system further includes a wireless communication network operable to communicate the audio file to the cellular communication device identified through a user logging into the Internet website. The system of Claim 68 also includes a digital engine operable to determine availability of the cellular communication device and to communicate the audio file to the cellular communication device. Neither Baughen, Shanahan, or the prior art of record disclose each of the elements of Claim 68.

Additionally, Claims 69-81 which depend from and provide further limitations to Claim 68, are distinguishable from the prior art of record.

CONCLUSION

The Applicants have reviewed the prior art of record and have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for reasons clearly apparent, the Applicants respectfully request full allowance of all pending claims. If there are any matters that can be discussed by telephone to further the prosecution of the Application, Applicants invite the Examiner to contact the undersigned at 512-773-2900 at the Examiner's convenience.

Respectfully Submitted,
White et al

By. 

Kevin R. Imes
Reg. No. 44,795

Kevin R. Imes
2001 So. Mopac #624
Austin, Texas 78746
Telephone: (512) 773-2900
Facsimile: (512) 342-8713